

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

UNITED STATES OF AMERICA

VS.

4:06-CR-00210-BRW

BENJAMIN DAVIS

ORDER

Defendant's Motion for Sentence Reduction (Doc. No. 58) is DENIED.

On March 9, 2007, Defendant was sentenced to 262 months in prison.¹ However, his base offense level and sentence were not based on the drug quantity table, but rather on his status as a "career offender" under U.S.S.G. § 4B1.1.² Therefore, the amended crack cocaine sentencing guidelines do not apply.

To the extent that Defendant is requesting relief under the Fair Sentencing Act ("FSA"), the motion is denied. Since neither Defendant's conduct nor sentencing occurred after the FSA was enacted on August 3, 2010, the FSA does not apply to his case.³

The ruling in *United States v. Savani* does not affect Defendant's case.⁴

IT IS SO ORDERED this 14th day of May, 2013.

/s/Billy Roy Wilson
UNITED STATES DISTRICT JUDGE

¹Doc. Nos. 25, 26.

²*United States v. Harris*, 688 F.3d 950 (8th Cir. 2012).

³*United States v. Orr*, 636 F.3d 944, 958 (8th Cir. 2011) (holding that the FSA was not retroactive and did not apply to a defendant who was sentenced before it became effective). The recent decision in *Dorsey v. United States*, 132 S. Ct. 2231 (2012) does not affect this case, since it dealt with defendants who were sentenced *after* the FSA became effective.

⁴2013 WL 1876752 (3d Cir. May 7, 2013).